

**UNITED STATES DISTRICT COURT
FOR DISTRICT OF MAINE**

COVETRUS, INC. and
VETERINARY DATA SERVICES, INC.

Plaintiffs,

v.

ACTIAN CORPORATION

Defendant.

Case Number: 2:21-cv-00097-LEW

FIRST AMENDED COUNTERCLAIMS OF ACTIAN CORPORATION

1. Pursuant to Fed. R. Civ. P. 13, Counter-Plaintiff Actian Corporation (“Actian”) complains and alleges against Counter-Defendants Covetrus, Inc. (“Covetrus”) and Veterinary Data Services, Inc. (“VDS”) (collectively, “Counter-Defendants”).

PARTIES

2. Counter-Plaintiff Actian Corporation (“Actian”) is a Delaware corporation with its principal place of business at Actian Corporation, 710 Hesters Crossing Rd., Suite 250, Round Rock, TX 78681. Actian is a computer software company whose primary focus is hybrid data management, integration, and analytics.

3. Based on its allegations in the Complaint, Covetrus is a Delaware Corporation having headquarters at 7 Custom House Street, Portland, Maine 04101, and providing animal health solutions, pharmacy services, and products to veterinary practices.

4. Based on its allegations in the Complaint, VDS is a Kentucky Corporation having a headquarters at 200 Lexington Green Circle, Suite 190, Lexington, Kentucky 40503, and being

in the business of providing data integration, conversion, and support services to the veterinary industry.

5. Actian is informed and believes, and on that basis alleges, that at all relevant times, each of the Counter-Defendants was, and is, the agent, servant and/or employee of each of the other Defendants, and that all of the things alleged to have been done by each Defendant were done in the capacity of and as agent of the other Defendants.

6. Actian is informed and believes, and on that basis alleges that Counter-Defendants were each acting as the agents of each other are alter egos and are therefore jointly and severally liable for the counterclaims asserted by Actian.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over Counter-Defendants, *inter alia*, because Counter-Defendants have submitted to personal jurisdiction herein by filing their Complaint in this Court.

8. Venue exists in this judicial district because the relief sought herein is a compulsory counterclaim to the claim filed by Plaintiffs in this case and pursuant to 28 U.S.C. §§ 1367 and 1391(b).

FACTS

9. Plaintiff Actian is a computer software company headquartered in Round Rock, Texas, whose primary focus is hybrid data management, integration, and analytics. Actian is renowned for its innovative data management, integration, and analytics technologies. Actian has an installed base of over 5,000 customers including large global enterprises, public sector entities, and small to medium enterprises.

The Parties' Agreement

10. One of the software products Actian develops is DataConnect, Version 9.2.7.10, also referred to as Data Integrator, or DI (the “Software”). The license agreement associated with the Software is the End User License Agreement (“EULA”), Version 9 (the “Agreement,” attached hereto as Exhibit A). Section 15.3 of the Agreement provides that it is governed by the laws of the State of Texas exclusive of its choice of law provisions.

11. The Agreement expressly provides that it is the “Complete Understanding” and “complete agreement” between the parties concerning the subject matter between the parties, and “supersedes all prior agreements and representations between you and Pervasive.” It further provides that “NO VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY WARRANTY, REPRESENTATION, OR PROMISE WHICH IS DIFFERENT THAN, OR IN ADDITION TO, THIS AGREEMENT ABOUT THE SOFTWARE.”

12. The Software cannot be installed or used without accepting the Agreement.

13. On or around January 31, 2020, Actian and Counter-Defendants entered into Sales Order Confirmation 744697 (“Sales Order,” attached hereto as Exhibit B).

14. The Sales Order confirmed that Counter-Defendants wished to purchase a Development license, referring to “Data Integrator – DI Prof On-Premise v9 Perpetual *Development*” (emphasis added). The Sales Order also confirmed that Counter-Defendants only wished to have a single development license (e.g., quantity of “1.00”), and a single unit of post-obsolence support (e.g., quantity of “1.00”). Thus, Counter-Defendants only purchased a single license to use the Software for one server with one core, and only for Development use.

15. In its “Terms and Conditions,” the Sales Order also referenced the “Actian

Corporation Support Policy,” and included its URL, “<https://supportservices.actian.com/support-services/support#policy>” (the “Support Policy,” attached hereto as Exhibit C).

16. The Support Policy provides, among other things, that “[f]or Developer licenses, the scope is limited to use of the software only for the purpose of developing, testing, prototyping and demonstrating your applications that interact with the software, and not for commercial or production use or any other purpose.” It further states that “You may not use the application developed under this license with the software for any internal data processing or for any commercial or production purposes, without obtaining a production license to the software.”

17. The Sales Order provides a “Start Date” of February 1, 2020 and an “End Date” of January 31, 2021.

18. The Sales Order provides that its acceptance is “subject to ... the license agreement” associated with Software. The license agreement associated with the Software is the Agreement.

19. The parties executed and accepted the Sales Order. On January 29, 2020, Counter-Defendants signed the Sales Order, and on January 31, 2020 Actian’s Vice President of Finance Marc Monahan also signed the Sales Order.

20. Counter-Defendants accepted the terms of the terms of the Sales Order, the terms of the Support Policy, and the terms of the Agreement.

Actian’s Audit of Use

21. Section 15.5 of the Agreement provides that Counter-Defendants will “maintain sufficient records, logs, and other materials (‘Records’) sufficient to document that your use of the Software is in accordance with the terms of this Agreement.” It further provides that Actian “may audit such Records upon reasonable notice.”

22. Pursuant to its audit rights, Actian informed Counter-Defendants on December 9, 2020 that the maintenance term of the DataConnect licenses for Counter-Defendants would soon be coming up for renewal. Actian further informed Counter-Defendants that before it was able to provide a renewal quote, it was required to obtain a completed self-audit form, along with the results of the associated licensing utilities. To ensure adequate time to complete the renewal, Actian requested the audit results by December 23, 2020.

23. On December 16, Counter-Defendants responded that their team was “concerned about the deadline, especially if a full inventory is required,” and therefore requested an extension of the December 23 deadline to complete the audit. In response to these concerns, and to allow a full inventory of use, Actian agreed to extend the deadline to January 15, 2020.

24. On January 15, 2021, Counter-Defendants returned the self-audit form and information. The self-audit form showed use of Version 9.2 of the Software.

The Breaches and Unlicensed Uses of Counter-Defendants

25. The audit results contained evidence of uses that were outside the scope of the license granted in the Agreement, and that were in breach of the terms of the Agreement. Actian has never authorized any such uses.

26. For example, the audit results showed that Counter-Defendants were using the Software for approximately 12 users, on 21 unique machines, across 112 total cores. This use was outside the scope of the “Grant of License” provided in Section 1.A of the Agreement, which provided a license to install the Software “only in a single location on a hard disk or other storage device,” and required Counter-Defendants to “acquire and dedicate a license for each individual who will use the Software” (emphasis added).

27. As another example, the audit showed that Counter-Defendants were using the

Software for commercial purposes and to provide services to third parties. This includes without limitation use of the Software to host or support “various” customers, to “convert data from one system to a new one for our clients locally,” and uses of “maps/processes to migrate individual concepts of one system to an intermediate Access or Microsoft SQL database, then use other maps/process to move from that intermediate database to the format our client expects.” Such uses fall outside the scope of the license in Section 6 of the Agreement, which excludes any use of the Software “in any manner to provide ... computer services to third parties without prior written approval of [Actian].”

28. As another example, in Section 4 of the Agreement, Counter-Defendants agreed not to use the Software “Except as expressly authorized in this Agreement.” Counter-Defendants’ commercial uses were not expressly authorized by the Agreement.

29. The parties held a call on January 29, 2021 to discuss the audit results. On the call, Counter-Defendants confirmed that the results of the audit were accurate.

Counter-Defendants’ Prior Uses of the Software

30. Counter-Defendants were also using the Software in prior years, including without limitation since at least 2015. Such uses were pursuant to previous orders from Counter-Defendants in which they accepted the same or similar provisions as the Sales Order, the Support Policy, and the Agreement.

31. For example, attached hereto as Exhibit D is a February 4, 2015 quote from Actian, the terms of the applicable support policy at the URL contained in the quote, and a purchase order from Counter-Defendants accepting those terms.

32. The quote provides that the acceptance by Counter-Defendants was “SUBJECT TO THE TERMS OF ... THE LICENSE AGREEMENT,” which again refers to the terms of the

Agreement. The quote also references the Actian Support Policy, with a URL to <http://www.actian.com/supportservices/support#policy>, which, among other things, again explains the scope of Developer Licenses using the same language as the Support Policy attached as Exhibit C.

33. Counter-Defendants accepted the terms of the quote, the terms of the Agreement, and the terms of the Support Policy.

Prior Use of Data Integrator Version 8.12

34. In or around 2006, a company called Vetdata, Inc. (“Vetdata”) ordered an earlier version of Data Integrator, Version 8.12 from Pervasive Software, Inc. (“Pervasive”). In or around April 11, 2013, a subsidiary of Actian merged with Pervasive.

35. Attached hereto as Exhibit F is a Purchase Order from Vetdata to Pervasive dated December 27, 2006. Vetdata ordered a single user license for Version 8.12 of “Data Integrator Pro Development Seat MT,” a single CPU license for Version 8.12 of “Data Integrator Pro Engine MT for Windows,” and associated support and maintenance.

36. Following up on Vetdata’s purchase order, attached hereto as Exhibit G is an Invoice from Pervasive to Vetdata for Version 8.12. The invoice provided that the single user development license is for “1 CPU.” It further provided that “In the event of conflicting or additional terms contained in any customer purchase order, the terms and conditions of the license shipping with the software shall control.”

37. Vetdata purchased and received Data Integrator Version 8.12 on or around December 2006. Attached hereto as Exhibit H is the End User License Agreement that shipped with Version 8.12 of Data Integrator (the “Version 8.12 EULA”). Data Integrator Version 8.12 cannot be installed or used without accepting the Version 8.12 EULA. In or around December

2006, Vetdata installed Data Integrator Version 8.12 and agreed to the terms of the Version 8.12 EULA.

38. The Version 8.12 EULA expressly provided that it “may be amended only in writing executed by both parties,” that “[a]ny purchase order placed by you is accepted only upon your assent to the terms and conditions of this Agreement, and not those contained in your purchase order.” It further provided that “NO VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY WARRANTY, REPRESENTATION, OR PROMISE WHICH IS DIFFERENT THAN, OR IN ADDITION TO, THIS AGREEMENT ABOUT THE SOFTWARE.”

39. The Version 8.12 EULA does not apply to Counter-Defendants current use of Software. The self-audit results show that Counter-Defendants have used Version 9.2.7.10, not Version 8.12. Version 9.2.7.10 is governed by the Agreement, not the Version 8.12 EULA. The Agreement also states that is the “Complete Understanding” and agreement of the parties, and “supersedes all prior agreements and representations between” the parties.

Action’s Efforts to Avoid Litigation

40. To avoid litigation, Actian offered Counter-Defendants a license to cover their past, current and future unauthorized uses, and presented a proposal to Counter-Defendants on February 8, 2021. Counter-Defendants refused this offer, and instead filed this action.

41. On information and belief, Counter-Defendants’ unlicensed use and exploitation of the Software is daily, ongoing, and continues to the present.

COUNT I
BREACH OF CONTRACT
(Against Counter-Defendants Covetrus, Inc. and Veterinary Data Services, Inc.)

42. Actian restates and incorporates by reference every allegation of the preceding

Paragraphs.

43. A contract exists between Actian and Counter-Defendants, as embodied in the Agreement attached hereto as Exhibit A.

44. Counter-Defendants materially breached the Agreement by engaging in wrongful conduct, including without limitation the following (collectively, the “Breaches”):

- a. Counter-Defendants’ use by approximately 12 users on approximately 21 unique machines across approximately 112 total cores breached the Agreement, including without limitation Section 1.A of the Agreement, which authorizes Counter-Defendants to install the Software “only in a single location on a hard disk or other storage device,” and required them to “acquire and dedicate a license for each individual who will use the Software”;
- b. Counter-Defendants’ use of the Software to host or support “various” customers, to “convert data from one system to a new one for our clients locally,” and to use “maps/processes to migrate individual concepts of one system to an intermediate Access or Microsoft SQL database, then use other maps/process to move from that intermediate database to the format our client expects” breaches the Agreement, including without limitation Section 6, which prohibits any use of the Software “in any manner to provide ... computer services to third parties without prior written approval of [Actian]”;
- c. Counter-Defendants’ commercial uses of the software are a breach of its contractual obligations and a breach of the terms of the Development license that it obtained;
- d. Counter-Defendants’ uses, including those identified above, are not expressly authorized by the Agreement and breach Section 4 of the Agreement, which

provides that Counter-Defendants may not use the Software “Except as expressly authorized in this Agreement”; and

- e. Such other breaches as may be identified by Actian.
- 45. The Breaches are ongoing and occur on a daily basis.
- 46. As a direct and proximate result of the Breaches, Actian has suffered harm and damages, including without limitation lost licensing revenue and lost fees.
- 47. Actian is entitled to damages for the Breaches, including without limitation compensatory damages, indirect damages, and consequential damages.
- 48. Actian is also entitled to prevailing party attorneys’ fees, as authorized under Texas Civil Practice and Remedies Code Section 38.001, and under other relevant law.

COUNT II
COPYRIGHT INFRINGEMENT
(Against Counter-Defendants Covetrus, Inc. and Veterinary Data Services, Inc.)

49. Actian restates and incorporates by reference every allegation of the preceding Paragraphs.

50. Actian is the owner of valid copyrights in the Software, which are registered under Copyright Registration Nos. TX0008902355, TX0008902344, TX0008902360, TX0008902319, TX0008898417, and TX0008899134 (collectively, the “Copyrights”). Registration information for the Copyrights attached hereto as Exhibit E).

51. Counter-Defendants’ ongoing and past unlicensed uses are outside the scope of the limited license granted by Actian in the Agreement. Such unlicensed uses of the Software constitute infringement of the Copyrights, and include without limitation the following (collectively, the “Infringements”):

- a. Unlicensed uses of the Software by approximately 12 users on approximately 21

unique machines across approximately 112 total cores;

- b. Unlicensed uses of the Software to host or support “various” customers;
 - c. Unlicensed uses of the Software to “convert data from one system to a new one for our clients locally”;
 - d. Unlicensed uses of the Software for “maps/processes to migrate individual concepts of one system to an intermediate Access or Microsoft SQL database, then use other maps/process to move from that intermediate database to the format our client expects”;
 - e. Counter-Defendants uses are all unlicensed pursuant to Section 14 of the Agreement, which provides for automatic termination of the license granted in Section 1 of the Agreement upon breach of any of its terms and conditions; and
 - f. Such other unlicensed uses as may be identified by Actian.
52. The Infringements occur daily and are ongoing to the present day.
53. Counter-Defendants’ infringement was and continues to be willful and intentional.
54. Counter-Defendants have continued to exploit the Software in violation of Actian’s exclusive copyright rights, constituting infringement of the Copyrights.

55. Counter-Defendants’ infringement was and continues to be willful and intentional.

56. As a direct and proximate result of Counter-Defendants’ wrongful conduct, Actian is entitled to damages in an amount to be proven at trial. Actian’s damages include without limitation Actian’s actual damages, profits attributable to infringement, statutory damages, willful infringement, and prevailing party attorneys’ fees as set forth in 17 U.S.C. § 505 and under other relevant law.

PRAYER FOR RELIEF

Wherefore, in consideration of the foregoing, Plaintiff prays for judgment against Counter-Defendants Covetrus and VDS as follows:

1. For actual and compensatory damages in an amount to be proven at trial;
2. Indirect and consequential damages in an amount to be proven at trial;
3. For prejudgment interest on all damages awarded at the maximum allowable rate;
4. An order finding that the Counter-Defendants are liable for breach of contract;
5. An order finding that Counter-Defendants are liable for copyright infringement;
6. A preliminary injunction against Counter-Defendants enjoining them and all of their officers, directors and personnel from further breaches of the Agreement;
7. A preliminary injunction against Counter-Defendants enjoining them and all of their officers, directors and personnel from further acts of copyright infringement;
8. An award of Actian's actual damages for copyright infringement;
9. An award of Covetrus' and VDS' profits attributable to copyright infringement;
10. An award of statutory damages for copyright infringement under to 17 U.S.C. § 504(c)(1);
11. A finding of willful and intentional copyright infringement, and an award of enhanced damages under 17 U.S.C. § 504(c)(2);
12. An award of all costs in this action;
13. An award of Actian's attorneys' fees as set forth in Texas Civil Practice and Remedies Code Section 38.001 and under other relevant law;
14. An award of Actian's attorneys' fees as set forth in the copyright statute, 17 U.S.C. § 505 and under other relevant law;

15. That the claim asserted by Plaintiffs Covetrus, Inc. and Veterinary Data Services, Inc. be denied in its entirety and all relief requested therein should be denied; and

16. For all such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff requests a trial by jury of any issues so triable by right.

Dated: August 26, 2021

By: */s/ Ryan Hatch*

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EXHIBIT A

LICENSE AGREEMENT

IMPORTANT - READ THIS LICENSE AGREEMENT (HEREAFTER "AGREEMENT") BEFORE CLICKING ON THE "ACCEPT" BUTTON, ENTERING "YES" IN RESPONSE TO THE ELECTRONIC LICENSE ACCEPTANCE INQUIRY, OR INSTALLING OR ELECTRONICALLY DOWNLOADING THE SOFTWARE. ANY OF THE ABOVE ACTIONS INDICATE ACCEPTANCE OF, AND LEGALLY BINDS YOUR COMPANY ("YOU" OR "LICENSEE"), AND PERVASIVE SOFTWARE, INC. ("PERVASIVE") TO THE TERMS AND CONDITIONS SET FORTH BELOW. THIS PRODUCT CONTAINS CERTAIN COMPUTER PROGRAMS AND OTHER PROPRIETARY MATERIAL, THE USE OF WHICH IS SUBJECT TO THIS AGREEMENT. YOU ARE CONSENTING TO BE BOUND BY AND BECOME A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE WITH THESE TERMS, YOU SHOULD PROMPTLY RETURN ANY PACKAGE THAT WAS SENT TO YOU OR DELETE ANY DOWNLOADED FILES THAT CONTAIN THE SOFTWARE AND YOUR MONEY WILL BE REFUNDED (IF WITHIN 30 DAYS OF PURCHASE).

IN THE EVENT THERE IS A SEPARATE SIGNED AGREEMENT OR ORDER WHICH APPLIES TO THIS SOFTWARE, TO THE EXTENT OF A CONFLICT, THE SEPARATE SIGNED AGREEMENT OR ORDER WILL GOVERN.

This Agreement applies to the object code copy of the Pervasive software which accompanies this Agreement, any license key or keys, and any subsequent update you receive for the foregoing, together with any Documentation (collectively, the "Software"). Software may include design or development software, adaptors, connectors, agents, metadata and run-time software. "Documentation" means all documentation included with the Software and any other documentation made available by Pervasive to you for use in connection with the Software.

1. Grant of License. Subject to the terms and conditions of this Agreement, Pervasive hereby grants to you a non-exclusive, non-transferable license to use the Software subject to the following:

A. If you have licensed Software that is identified on the sales invoice, on the media package or on the install screen as design or development software, then the following installation limitations shall apply -

- * You may install the Software only in a single location on a hard disk or other storage device.

- * You may install the Software on a network server used only to install or run the Software over an internal network; however, you must acquire and dedicate a license for each individual who will use the Software.

- * You may install and use each licensed copy of the Software on one home or portable "Secondary" computer. However, another person may not use the Software on the Secondary computer at the same time the Software on the primary computer is being used.

B. If you have licensed Software that is identified on the sales invoice, on the media package or on the install screen as deployment or runtime software, then the following installation limitations shall apply unless the sales invoice or order form expressly permits multiple installations -

* Each license of the deployment or runtime Software may be installed only on a single machine or network server.

* On multiple-CPU machines, the deployment or runtime Software may not be used concurrently on more CPUs than the number of CPUs specified on the media package or sales invoice. In the event you use any number of physical CPUs, the authorized number of CPUs under this Agreement will be determined based on the number of logical or virtual CPUs.

* Notwithstanding the foregoing, you may programmatically invoke the deployment or runtime Software from one or more other machines within your organization.

2. Backup and Copies. The following backup limitations shall apply-

* You may make a reasonable number of copies of the Software only for archival backup and security reasons in order to protect your investment from loss.

* You may not install copies of the software for fail-over or disaster recovery without purchasing additional licenses for such purposes.

* Unauthorized copying of either the Software or Documentation is expressly forbidden.

* You may print copies of the Documentation or any part thereof from the electronic Help included with your Software solely for your internal use.

3. Term and Termination.

A. If the order form or sales invoice does not specify a limited term license (i.e. perpetual):

This Agreement is effective from the date you accept this License and will remain in force until terminated. You may terminate this Agreement at any time by destroying the Documentation and the Software together with all copies and adaptations thereof.

All fees paid hereunder are non-refundable.

B. If the order form or sales invoice specifies a limited term license (i.e., subscription):

Your subscription commences on the start date specified in the relevant sales invoice or order form and continues for the subscription term specified therein. You may terminate this Agreement at any time by destroying the Documentation and the Software together with all copies and adaptations thereof, but in the event of such termination, the due date of all fees due Pervasive will automatically be accelerated so that they will become due and payable on the effective date of termination, even if other payment terms had been provided previously. All fees paid hereunder are non-refundable.

4. Copyright.

Title, ownership rights, and intellectual property rights in and to the Software and Documentation will remain in Pervasive or its suppliers. Copyright laws of the United States and International Treaty provisions protect the Software and

Documentation. Except as expressly authorized in this Agreement, you agree not to use, rent, lease, sublicense, distribute, transfer, copy, reproduce, display, modify, create derivative works of, time share or dispose of the Software or Documentation or any part thereof. Pervasive retains ownership of the Software and Documentation and reserves all rights not expressly granted to you.

5. Distribution to Third Parties.

If you intend to embed runtime Software within any application for distribution to third parties, then you must (i) execute a distribution agreement with Pervasive; (ii) distribute the runtime Software only in conjunction with or as a part of your application; (iii) include an end-user license agreement with your application that grants a limited license to use the runtime Software and protects the intellectual property rights of Pervasive and its suppliers in the run-time Software; (iv) unless you or your sub-distributors have a separate written agreement with Pervasive to private-label the runtime portion of the application, include on the application's startup screen appropriate copyright notices; , and (v) indemnify, hold harmless and defend Pervasive and its suppliers from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of your application.

6. Leasing/Rental Prohibited.

You may not directly or indirectly sublicense, lease or rent the Software for third party use without prior written approval of Pervasive. You may not use, access, or allow access to the Software in any manner to provide service bureau, ASP, time-sharing, or other computer services to third parties without prior written approval of Pervasive.

7. Protection of Software.

You agree to take all reasonable steps to protect the Software and Documentation from unauthorized copying or use. The Software source code represents and embodies trade secrets of Pervasive or its licensors. The source code and embodied trade secrets are not licensed to you and any modification or addition thereto, or deletion therefrom is strictly prohibited. You agree not to disassemble, decompile, or otherwise reverse engineer the Software in order to discover the source code or the trade secrets contained in the source code.

8. Assignment.

You may not assign or otherwise transfer in whole or in part or in any manner any rights, obligations, or any interest in or under this Agreement without Pervasive's prior written consent and any attempted assignment will be void. A merger or other acquisition by a third party will be treated as an assignment. Pervasive may at any time and without your consent assign all or a portion of its rights and duties under this Agreement.

9. Performance or Benchmark Testing.

You may not publish or otherwise disclose to any third party the results of any performance or benchmark tests of the Software without prior written approval of Pervasive.

10. Limited Warranty.

To the original licensee only, Pervasive warrants the media on which the Software is recorded and its accompanying printed materials to be free of defects in materials and workmanship for a period of 90 days from the date of purchase as evidenced by a copy of the receipt. If the licensee notifies Pervasive of defects in material or workmanship within the warranty period, then, as licensee's sole remedy and Pervasive's sole obligation and liability, Pervasive will replace the defective item(s).

If you receive pre-release or beta Software under this Agreement, such pre-release or Beta Software is provided "As Is" without warranty of any kind. Pervasive and its suppliers will not be liable for any damages relating to your use of such pre-release or beta Software. If Pervasive updates or upgrades the pre-release or beta Software and makes it generally available, then: (i) provided you have paid any applicable maintenance fees, if any, Pervasive will provide you with the applicable update or upgrade to the generally available version of the Software, and (ii) the limited warranty set forth above in this Agreement will apply to such generally available Software version commencing upon receipt of such version.

11. Disclaimer of Warranty.

PERVASIVE LICENSES THE SOFTWARE AND DOCUMENTATION TO YOU UNDER THIS AGREEMENT SOLELY ON AN "AS IS" BASIS. EXCEPT AS PROVIDED IN SECTION 10, PERVASIVE MAKES NO OTHER REPRESENTATIONS, CONDITIONS OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, REGARDING THE SOFTWARE AND DOCUMENTATION; PERVASIVE EXPRESSLY STATES AND YOU ACKNOWLEDGE THAT PERVASIVE DOES NOT MAKE ANY REPRESENTATIONS, CONDITIONS OR WARRANTIES, INCLUDING, FOR EXAMPLE, WITH RESPECT TO MERCHANTABILITY, TITLE, NONINFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, AMONG OTHERS.

12. High Risk Activities.

The Software is not fault-tolerant and is not designed, manufactured, or intended for use or resale as on-line control equipment in hazardous environments regarding fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Pervasive and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

13. Limitation of Liability.

PERVASIVE'S AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SOFTWARE OR DOCUMENTATION IS LIMITED TO THE TOTAL OF ALL PAYMENTS MADE BY YOU FOR

THE SOFTWARE UNDER THIS AGREEMENT. IN NO EVENT WILL PERVASIVE OR ITS SUPPLIERS BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER UNDER THEORY OF WARRANTY, TORT, PRODUCTS LIABILITY OR OTHERWISE.

14. Effect of Termination.

This Agreement will automatically terminate if you breach any of the terms and conditions of this Agreement. You agree to destroy the original and all copies of the Software and Documentation, or to return them to Pervasive upon termination of this license. Sections 3, 4, 6, 7, 9, 11, 12, 13, 14 and 15 of this Agreement will survive any termination hereof.

15. Miscellaneous.

15.1 Complete Understanding. This Agreement represents the complete agreement concerning the subject matter between you and Pervasive and supersedes all prior agreements and representations between you and Pervasive.

15.2 Modification. This Agreement may be amended only in writing executed by both parties. Any purchase order placed by you is accepted only upon your assent to the terms and conditions of this Agreement, and not those contained in Your purchase order. NO VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY WARRANTY, REPRESENTATION, OR PROMISE WHICH IS DIFFERENT THAN, OR IN ADDITION TO, THIS AGREEMENT ABOUT THE SOFTWARE.

15.3 Governing Law. This Agreement is governed by the laws of the State of Texas (U.S.A.) exclusive of its choice of law provisions. This Agreement expressly excludes the United States Convention on Contracts for the International Sale of Goods.

15.4 Waiver. No waiver of any right under this Agreement will be effective unless in writing, signed by a duly authorized representative of Pervasive. No waiver of any past or present right arising from any breach or failure to perform will be deemed to be a waiver of any future right arising under this Agreement.

15.5 Audit. You agree to maintain sufficient records, logs, and other materials ("Records") sufficient to document that your use of the Software is in accordance with the terms of this Agreement. Pervasive may audit such Records upon reasonable notice.

15.6 Severability. If any provision in this Agreement is held invalid or unenforceable, that provision will be construed, limited, modified, or, if necessary, severed, to the extent necessary, to eliminate its invalidity or unenforceability, and the other provisions of this Agreement will remain unaffected.

15.7 Export Controls. None of the Software or underlying information or technology may be downloaded or otherwise exported or reexported (i) into (or to a national or resident of) any country to which the U.S. has embargoed goods; or (ii) to any

person or entity on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders, or the U.S. Commerce Department's Entity List of Missile, Nuclear, and Chemical and Biological Weapons Proliferators, or the U.S. Department of State's Foreign Terrorist Organization List. You agree to the foregoing and you represent and warrant that you are not located in, under the control of, or a national or resident of such country or on any such list. The Software may also be subject to U.S. laws and export regulations of the U.S. Government that require an explicit export license prior to any export or reexport of the Software. You agree to obtain any such explicit export license that may be required.

15.8 U.S. Government End Users. The Software is a "commercial item", as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation", as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212, and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein. Contractor/Manufacturer is Pervasive Software Inc., 12365 Riata Trace Parkway, Building B, Austin, Texas 78727.

15.9 Operating System. It is your responsibility to fully comply with applicable license agreements for any operating systems you may use with the Software.

15.10 Open Source Software. The Software includes certain "Open Source Software". A list of the Open Source Software included in the Software and available to you from Pervasive, the applicable license terms, and how to obtain the Open Source Software (if not already provided to you as part of the Software) are provided in the Software "about box" or accompanying documentation. Any provisions in this Agreement which differ from any Open Source Software license are offered by Pervasive alone and not by any other party. ALL OPEN SOURCE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS, AND PERVASIVE DISCLAIMS ALL WARRANTIES WITH REGARD TO OPEN SOURCE SOFTWARE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL PERVASIVE OR ITS LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES OR ANY OTHER DAMAGES WHATSOEVER, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE OPEN SOURCE SOFTWARE EVEN IF PERVASIVE OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH LOSSES OR DAMAGES ARE FORESEEABLE. THIS LIMITATION WILL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM PERVASIVE'S OR ITS LICENSORS' NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION.

15.11 English will be the controlling language of this Agreement.

15.12 Maintenance and Support Services. If you have selected and paid for maintenance and support services for the Software, Pervasive agrees to provide maintenance and support services for the Software subject to the terms and conditions of this Agreement and the standard Pervasive maintenance and support services terms applicable to the maintenance and support plan level selected by you. All error corrections, updates, and upgrades provided by Pervasive to you in connection with maintenance and support services are hereby deemed Software and are

governed by the terms and conditions of this Agreement.

(c) 2008 Pervasive Software Inc.

EXHIBIT B



Action Corporation
2300 Geng Road, Suite 150
Palo Alto, CA 94303
United States
Phone: (650) 587-5500
Fax: (650) 649-2358

Sales Order Confirmation: 744697

Prepared by: Katherine Kemp

Phone: (512) 231-6604

Email: katherine.kemp@actian.com

Customer Account Number: 1111285

Date: December 4, 2019

Billing Terms: Annual in Advance

Payment Terms: Net 30

Validity Period: valid through January 30, 2020

Currency: USD

Message: Please be sure your Purchase Order includes the following information: (1) reference to this quote number and (2) Bill To physical and email addresses

BILL TO:

Veterinary Data Services, Inc.
Accounts Payable
7 Custom House Street
Floor 2
Portland, ME 04101
United States
accountspayable@vetdata.com

SHIP TO:

Veterinary Data Services, Inc.
Kristen Parisien
200 Lexington Green Circle
Suite 190
Lexington, KY 40503
United States
kparisien@vetsfirstchoice.com

#	Product	Start Date	End Date	Version	Platform	Unit	Quantity	Unit Price	Total Price
1	DI-OP-9-PRO-P-DEV-SLVR-MNT <i>MAINTENANCE ONLY (no support) for Data Integrator - DI Prof On-Premise v9 Perpetual Development</i>	February 1, 2020	January 31, 2021	DC 9	Windows 32-bit	Each	1.00	\$1,733.10	\$1,733.10
2	DI-OP-9-P-SLVR-MNT-OBS <i>End User Silver Obsolescence Support for Data Integrator Post-Obsolescence Support</i>	February 1, 2020	January 31, 2021	DC 9	Windows 32-bit	Each	1.00	\$3,466.20	\$3,466.20
GRAND TOTAL									\$5,199.30

**Sales Order Confirmation: 744697**

Prepared by: Katherine Kemp

Phone: (512) 231-6604

Email: katherine.kemp@action.com

Terms and Conditions

1. ACCEPTANCE OF THIS ORDER IS SUBJECT TO THE TERMS OF THE APPLICABLE SIGNED AGREEMENT WITH ACTION CORPORATION (FORMERLY INGRES, OR ANY OF ITS SUBSIDIARIES, INCLUDING PARACCEL, PERVASIVE, AND VERSANT), OR (IF NONE), THE LICENSE AGREEMENT ASSOCIATED WITH THE ABOVE REFERENCED PRODUCT.
2. FEES HEREIN ARE EXCLUSIVE OF TAXES, WITHHOLDING, LEVIES, IMPOSTS, AND DUTIES (TAXES) AND CUSTOMER, NOT ACTION, IS RESPONSIBLE FOR ANY SUCH TAXES.
3. ANY TERMS AND CONDITIONS IN ANY CUSTOMER PURCHASE ORDER OR SIMILAR DOCUMENT ARE EXPRESSLY REJECTED AND SHALL NOT APPLY TO THE PURCHASES AND LICENSES HEREIN.
4. ACTION CORPORATION SUPPORT POLICY: <https://supportservices.action.com/support-services/support#policy>

ACCEPTED AND AGREED BY:

CUSTOMER

Signature: Chaf Fannin
Name: Chauncey Fannin
Title: Sr. Operations Manager
Date: 1/29/2020

ACTION


Signature: 
Name: Marc Monahan
Title: VP, Finance
Date: 1/31/2020



EXHIBIT C

A perpetual license is a software license for a term that does not have a specified end date.

I Accept

Flex Licenses

A flex license is a software license which allows the maximum number of cores be counted across multiple servers or nodes.

Enterprise Licenses

An enterprise license is a software license which provides the full feature set on a single server or node within a cluster.

Universal Licenses

A universal license is a software license which allows a maximum number of 2 cores enabled on a single server

Professional Licenses

A professional license is a software license which allows a maximum number of 1 cores enabled on a single server.

Support Policy Terms

Support Fees

Support Fees are due and payable annually in advance of a support term, unless otherwise stated in the relevant ordering document.

Support Period

Support is effective upon the signature of your Order unless stated otherwise in your Order. Once ordered, all Support Services, and Support Fees, are non-cancelable and non-refundable. Actian is not obligated to provide Support Services beyond the end of the term indicated in your Order unless you renew your Support Services on or before the expiration date by agreement between Actian and you.

Support for Perpetual Licenses

When acquiring Support Services for a perpetual license, all licenses of the same product(irrespective of version) must be supported under an active Actian Support contract. You may not support only a subset of licenses of the same product; those licenses left unsupported must be terminated. With respect to Actian Support Services in relation to perpetual licenses, you hereby represent that you have the appropriate licenses to the Software that is subject to the Support Services. A product may not be deployed in any environment in which a community version of the Product is deployed.

Support Not Covered

Support services do not cover services for any failure or defect in the licensed product caused by (i) alteration or modification of the licensed product other than by Actian unless such alteration or modification was made under the direction of Actian; (ii) negligence, computer or electrical malfunction; or (iii) use, adjustment, installation or operation other than in accordance with the licensed documentation or with any application or in an environment other than as specified in the licensed documentation, or if you are using a version of the licensed product released more than one year prior to the then current version. Actian does not provide support for any community versions of the products nor do we provide onsite support as part of the normal enterprise support. Onsite services are available as part of a paid for services engagement.

Support Indemnification

We shall have no support obligations to the extent a support issue could be avoided by use of the latest released Updates or version of the Products.

Reinstatement of Actian Support for Perpetual Licenses

When Support Services lapse on a perpetual license, it can be reinstated by paying all of the back support due

for the unsupported period, plus support for one year going forward, unless agreed otherwise between Actian and you. Unsupported licenses are not eligible for Updates, Enterprise Support, or any other Actian services.

Product Updates

"Update" means any update to the Software which Actian generally makes available to its supported customers, bug fixes, patches, service packs and new releases.

Right to Accelerate Product Support Lifecycle

Actian may shorten the term of Enterprise support for certain products and versions at its discretion. Actian will make commercially reasonable efforts to announce any change in lifecycle length at least 12 months in advance. These notices are subject to change, and will be updated as necessary.

User

As used in Actian's price list, "User" is an individual with the appropriate license rights, and authorized by customer, to use the Actian products which are installed on a single server or multiple servers, regardless of whether the individual is actively using the products at any given time.

Processor

As used in Actian's price list, "Processor" means the individual processor (whether it has one core or multiple cores) within a particular socket. All processors on or with which the Actian Software is running or installed must be licensed. A Server license allows you to use the licensed program on a single specified computer.

Core

As used in Actian's price list, "Core" means the number of individual physical processor cores within a single system or node. In an environment having multi-core processors, as determined by counting the number of individual physical processor cores within a single Processor, those systems will be priced on a per-core basis. Cores that are in single-core per processor configuration are not eligible for multi-core pricing. Core count is based on the total number of cores and processors in the particular hardware system.

Socket

Means the equivalent of one CPU having 10 or less cores contained in such CPU.

Machine/Server

As used in Actian's price list, a "Machine" or "Server" shall mean the Software is licensed to (a) the entire physical computer or server which has a single unique serial number with no limitations placed on the number of Processors; or (b) an instance of a virtual machine or container.

Node

As used in Actian's price list, a "Node" shall mean the Software is licensed to a Node where Vector has the DataNode service, x100_server and iibms processes running.

Avalanche Unit

As used in Actian's price list, an Avalanche Unit (AU) is a logical measure of the computing capacity of the cluster and includes provisioned storage up to one-half TiB, compressed between 4 to 6 times. Assuming a compression factor of 5, an 8 AU cluster (4 TiB of provisioned storage) would store about 20 TiB of raw, uncompressed data. Compression factors may vary based on the data. Generally speaking, the more AUs, the faster your data loading and queries will be.

Virtual Machine

Virtual Machine is an environment where a Virtual Machine has been implemented either by Software emulation or Hardware virtualization.

Virtual Processor

In a Virtual Machine environment, "Virtual Processor" means an individual virtual processor (whether it has

access to one core or multiple cores) within a particular Virtual Machine configuration. All Virtual Processors on or with which the Actian Software is running or installed must be licensed. Where the Virtual Processor count exceeds the physical machine processor count, all additional Virtual Processors must be individually licensed.

Virtual Core

In a Virtual Machine environment, the Virtual Core count is the number of virtual cores that are designated or able to run the Actian Software within the Virtual Machine. In an environment having multiple Virtual Cores per Virtual Processor those systems will be priced on a per Virtual Core basis (and if such Virtual Core count is an odd number, it will be rounded up to the next multiple of 2). Virtual Cores that are in single Virtual Core per Virtual Processor configuration are not eligible for multi-core pricing. Where the Virtual Core count exceeds the physical machine core count, all additional Virtual Cores must be individually licensed (and if such Virtual Core count is an odd number, it will be rounded up to the next multiple of 2).

Hyper Threading and Virtual Processors / Cores

Hyper Threading and/or Virtual Processors / Cores, the Core Count required to be licensed is the greatest number of hyper threads, virtual processors or virtual cores, on the physical host(s) or Virtual Machine instances on the hardware on which the Actian Software is installed or able to run. Actian software sees each thread as being a CPU core therefore each thread must be individually licensed on the same basis as CPU cores (either physical or virtual depending on the deployment model, with a minimum count of two (2) cores per physical host or virtual machine instance).

Source System Data

Is the total size of uncompressed text files containing all data extracted out of the source system(s) to represent the current data in a Vectorwise database.

Scope of Hot Standby/DR, Test and Developer Licenses

If we have granted to you in writing a Hot Standby/DR, Test or Developer license, the following definitions apply to those licenses:

Cold and Hot Standby/DR Licenses

For Hot and Cold Standby/DR licenses, the scope is limited to testing and installation of the software ("Standby Software") on a backup system for disaster-recovery purposes (i.e., where the primary installation of the software becomes unavailable for use), and the Standby Software cannot be used for production purposes, unless and only for so long as the primary production copy of the software is unavailable and not in use. For Cold Standby/DR licenses, Standby Software must be inactive when the primary production copy of the software is in use. Hot or Cold Standby/DR license rights are valid only if you have a concurrent full production use license for the identical software product, product version, and duration as the Standby Software license, and such production software is deployed on and licensed for a system with at least as many cores as the Standby Software.

Test Licenses

For Test licenses, the software may be used only for purposes reasonably associated with testing of a software application in a non-production environment (such as, but not limited to, recreating problems affecting a production environment, creation of test cases, testing new releases or applications that are planned for migration into the production environment), and not for production use, normal operations, processing transactions, handling workloads for business purposes, or for any other purpose.

Developer Licenses

For Developer licenses, the scope is limited to use of the software only for the purpose of developing, testing, prototyping and demonstrating your applications that interact with the software, and not for commercial or production use or any other purpose. You may not use the application developed under this license with the software for any internal data processing or for any commercial or production purposes, without obtaining a production license to the software.

Action and Dealing with Multi-Vendor Support

<https://web.archive.org/web/20190914163403/https://supportservices.actian.com/support-services/support#policy>

Action is dedicated to providing the highest level of support to its customers. Where other products may be involved in an Action solution, Action support utilizes the industry organization of Technical Support Alliance Network (TSANet) to collaborate with other partners. TSANet is a Not-For-Profit worldwide alliance with over 500 members dedicated to working together to solve mutual customer, multi-vendor issues.

Action participates at the highest membership level of Global Premium and has been a member since 2009. Action is very active in the organization and continues to participate in multiple levels of leadership to drive the organization to better providing a better multi-vendor experience for customers. Action is an elected member of the Board of Directors and has served both in Board and Officer positions.



Severity and Priority Definitions and Response Times

Severity Definitions

Support issues may be submitted either electronically or via telephone. To ensure that we treat your issue with the appropriate level of significance, when raising an issue, you are responsible to accurately assign a severity level. The following table provides some guidance as to how the severity should be defined.

Severity 1: Critical Business Impact - Any unscheduled, total loss of a production system, application or service, or any loss of a major business function.

Severity 2: Major Business Impact - Any failure which causes a partial loss or degradation of a production system or service, or has the potential to escalate to a Severity 1 if left unresolved.

Severity 3: Minimal Business Impact - Any non-critical system error or minor service loss which has minimal business impact or risk.

Severity 4: No Business Impact - Any incident which causes no loss of a production service, and which has no business impact.

When you have a Severity 1 incident, we want to work on your Severity 1 incident until it is resolved and also requires your technical team be available 24 hours a day to work with us so that any further documentation required to continue work can be obtained, and to provide further information and assistance. If your technical team is not available to provide the required documentation, information or assistance, the severity of the incident may be downgraded to a Severity 2, and shall remain downgraded until all required documentation, information, and assistance is provided. Action's assistance with resolution of an incident is contingent on your team's cooperation and assistance.

*Developer and Silver Support does not include 24 hour commitment and response guidelines for Severity 1 incident requests.

Priority Definitions

Blocker - HIPER Classifications (High Impact and Pervasive Errors) requiring a formal notification to all customers in the base. Includes items that are: Data Integrity Issues (Existing Customer Data is being deleted/duplicated/alterd incorrectly), Security Vulnerabilities, performance that causes a severe impact to throughput, a defect that prevents the use of the product (component/connector/design tool/engine), defect halts customer's production, any of the major applications will not run, install or operate, Any of the major tools cause irreparable damage to the user's system, problems that could affect all customers negatively and no workaround available.

Critical – Includes items that are: Case has no work around, product will not install and implementation cannot begin or move forward, a defect that causes the product to crash or result in the loss of data, the application fails during execution (e.g. GPF or Automation error), to the degree that it is unusable, the application has

failures that cause the loss of significant amounts of work (e.g., can't save designs or corrupts the database).

Major - Includes items that are: Have a difficult and/or manual work around that is not business sustainable, expected functionality is implemented incorrectly, production is partially down, application productivity is slowed down to the point that it delays the customer's production.

Normal - Includes items that are: May have a reasonable work around and expected functionality is partially working (or not at all for non-critical features), production is up, but functionality or performance through workarounds is unacceptable, the software executes, but errors persist, the software does not work in certain environments due to issues with system configuration or resources.

Minor – Includes items that are: Graphical User Interface defects that do not effect production, functional error or defect that has a simple work around, a normal error with a non-major product or component, and major documentation defects.

Trivial – Includes items that are: Minor documentation defects, a defect that would, in all likelihood, not affect any customers, a defect that is only related to a very specific minor outlying case.

Support Response Times by Severity

Severity 1: 1 hour 24X7*

Severity 2: 2 hours during business hours

Severity 3: 4 hours during business hours

Severity 4: End of business day

*This response level is only available to customers with Gold or higher support services.

Information Customers Should Gather Before Requesting Support

- Your company name and seven-character site ID for Enterprise Support or Extended Support program:
 - Name of the product
 - Release of the product
 - Service Pack (SP) of the product (e.g. maintenance level)
 - Fixes applied above the base product or Service Pack
- Operating system (OS):
 - OS release and SP
 - Language of the OS (if applicable)
 - Fixes applied to the OS or SP
- What is the severity, priority and business impact of the problem?
- Which environment is affected (e.g. production, test, or development)?
- Describe the incident in detail by product as follows:
 - [Collecting Information for Ingres Cases](#)
 - [Collecting Information for Ingres Query Cases](#)
 - [Collecting Information for OpenROAD Cases](#)
 - [Collecting Information for Versant Object Database \(VOD\) and JPA Cases](#)
 - [Collecting Information for DataConnect](#)
 - [Collecting Information for PSQL](#)

Contact Information

Contact information by country can be found on our [support contacts page](#).

Updates and Changes

The Actian Support Policies may be updated from time to time and are subject to change at Actian's discretion; provided however, Actian's service commitments per its Support Policies will not be materially reduced as compared to the Actian Support Policies in effect at the start of your support term (typically one year) during the then-current support term.

For Customers

Resources
Downloads
Community
Events & Webinars
Blog

For Partners

Partners
Downloads
Documentation
Training

For Developers

Developers
Downloads
Documentation
Resources
Blog

Stay up to Date



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EXHIBIT D



Quote

Prepared by:

Heather Ulcak

heather.ulcak@actian.com

Pervasive Software, Inc.
**12365-B Riata Trace Parkway
Austin, TX 78727
United States**
Phone: (512) 231-6000
Fax: (512) 231-6000
Quote Date: 04-February-2015

Quote Number: 447716

Account Number: 1111285

Account Type: Direct

Partner Type: N/A

Billing Terms: Annual in Advance

Payment Terms: Net 30

Validity Period: 10 Days

Message: Please be sure your Purchase Order includes the following information: (1) reference to this quote number and (2) Bill To physical and email addresses

BILL TO	SHIP TO
Veterinary Data Services, Inc. 400 Bellerive Blvd Ste 250 Nicholasville KY 40356-7010 United States	Veterinary Data Services, Inc. 400 Bellerive Blvd Ste 250 Nicholasville KY 40356-7010 United States

Product	Contract Start	Contract End	Version	Platform	Unit	Quantity	Price	Extended Price
DI-OP-9-PRO-P-DEV-SLVR-MNT Slvr Maint for DI Prof On-Premise v9 Perpetual Dev End User Silver Maintenance and Support for Data Integrator - DI Prof On-Premise v9 Perpetual Development	01-February-2015	31-January-2016	9	Windows		1.0	USD 913.00	USD 913.00
DI-OP-9-P-SLVR-MNT-EXT End User Silver Ext Maint and Support for Data Integrator End User Silver Ext Maint and Support for Data Integrator Extended Support	01-February-2015	31-January-2016	0	N/A	Each	1.0	USD 839.95	USD 839.95

Grand Total:	USD 1,752.95
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AGREEMENT TERMS:

- 1) ACCEPTANCE OF THIS ORDER IS SUBJECT TO THE TERMS OF THE APPLICABLE SIGNED AGREEMENT WITH ACTION US (FORMERLY INGRES, OR ANY OF ITS SUBSIDIARIES, INCLUDING PARACCEL, PERVASIVE, AND VERSANT), OR (IF NONE), THE LICENSE AGREEMENT ASSOCIATED WITH THE ABOVE REFERENCED PRODUCT.**
- 2) FEES HEREIN ARE EXCLUSIVE OF TAXES, WITHHOLDING, LEVIES, IMPOSTS, AND DUTIES**

(TAXES) AND CUSTOMER, NOT ACTION, IS RESPONSIBLE FOR ANY SUCH TAXES. ANY TERMS AND CONDITIONS IN ANY CUSTOMER PURCHASE ORDER OR SIMILAR DOCUMENT ARE EXPRESSLY REJECTED AND SHALL NOT APPLY TO THE PURCHASES AND LICENSES HEREIN.

Any terms and conditions in any Customer Purchase Order or similar document are expressly rejected and shall not apply to the purchases and licenses herein.

Action Support Policy - <http://www.actian.com/support-services/support#policy>



[Login \(/web/20150118090302/http://supportservices.actian.com/user/login.rhq\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/user/login.rhq) | [Register \(/web/20150118090302/http://supportservices.actian.com/user/register.rhq\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/user/register.rhq) | [Portal \(/web/20150118090302/http://supportservices.actian.com/\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/)

Actian Support

Committed to your success

[Home \(/web/20150118090302/http://supportservices.actian.com/support-services/\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/) | [Support & Services \(/web/20150118090302/http://supportservices.actian.com/support-services/#support-services\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#support-services) | [Support \(/web/20150118090302/http://supportservices.actian.com/support-services/#support\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#support)

Support & Services

Support

[Support \(/web/20150118090302/http://supportservices.actian.com/support-services/#support\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#support) | [Overview \(/web/20150118090302/http://supportservices.actian.com/support-services/#overview\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#overview) | [Supported Products \(/web/20150118090302/http://supportservices.actian.com/support-services/#supported-products\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#supported-products) | [Lifecycle Dates \(/web/20150118090302/http://supportservices.actian.com/support-services/#lifecycle-dates\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#lifecycle-dates) | [Policy \(/web/20150118090302/http://supportservices.actian.com/support-services/#policy\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#policy) | [FAQ \(/web/20150118090302/http://supportservices.actian.com/support-services/#faq\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#faq) | [Contacts \(/web/20150118090302/http://supportservices.actian.com/support-services/#contacts\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#contacts)

[Security Center \(/web/20150118090302/http://supportservices.actian.com/support-services/#security-center\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#security-center) | [Services \(/web/20150118090302/http://supportservices.actian.com/support-services/#services\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#services) | [Education \(/web/20150118090302/http://supportservices.actian.com/support-services/#education\)](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#education)

Actian Corporation provides customers the flexibility of a subscription service with ~~support services~~. The subscription model allows customers to only pay for the product support and services for the time they use the product versus a more legacy license approach to software purchases. This business model allows Actian to be more responsive to customer needs and provides faster product and service innovation to the marketplace.

Thank you for choosing Actian Support. This document is here to help our customers to better understand the Actian Support Policies and better utilize Actian Support. These policies apply to all Actian product lines, unless otherwise noted.

General ([/web/20150118090302/http://supportservices.actian.com/support-services/#general](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#general))
Scope of Hot Standby/DR Test and Developer Licenses ([/web/20150118090302/http://supportservices.actian.com/support-services/#hotstandby](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#hotstandby))
Actian Analytics Platform – ExpressPlus Edition and ExpressPlus Hadoop SQL Edition Support Levels ([/web/20150118090302/http://supportservices.actian.com/support-services/#expresssupportlevels](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#expresssupportlevels))
Actian Analytics Platform – Extreme Performance Edition and Hadoop SQL Edition Support Levels ([/web/20150118090302/http://supportservices.actian.com/support-services/#supportlevels](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#supportlevels))
Actian Ingres and OpenROAD Support Levels ([/web/20150118090302/http://supportservices.actian.com/support-services/#ingressupportlevels](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#ingressupportlevels))
Actian Versant Support Levels ([/web/20150118090302/http://supportservices.actian.com/support-services/#versantsupportlevels](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#versantsupportlevels))
Scope of Versant Named User, ETS, VAR and High Availability Backup ([/web/20150118090302/http://supportservices.actian.com/support-services/#versant](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#versant))
Actian PSQL Support Levels ([/web/20150118090302/http://supportservices.actian.com/support-services/#psqlsupportlevels](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#psqlsupportlevels))
Severity Definitions and Response Times ([/web/20150118090302/http://supportservices.actian.com/support-services/#severity](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#severity))
Information Customers Need When Requesting Support ([/web/20150118090302/http://supportservices.actian.com/support-services/#info](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#info))
Contact Information ([/web/20150118090302/http://supportservices.actian.com/support-services/#contact](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#contact))
Updates and Changes ([/web/20150118090302/http://supportservices.actian.com/support-services/#updates](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#updates))

General

Support Fees

Support Fees are due and payable annually in advance of a support term, unless otherwise stated in the relevant ordering document.

Support Period

Support is effective upon the signature of your Order unless stated otherwise in your Order. Once ordered, all Support Services, and Support Fees, are non-cancelable and non-refundable. Actian is not obligated to provide Support Services beyond the end of the term indicated in your Order unless you renew your Support Services on or before the expiration date by agreement between Actian and you.

Subscription

An active subscription includes the use of the licensed product and Enterprise Support during the term. A subscription that is not renewed at the end of the term will be considered expired, and customer will discontinue all use of the software and Support Services.

Perpetual Licenses

A perpetual license is a software license for a term that does not have a specified end date.

Support for Perpetual Licenses

When acquiring Support Services for a perpetual license, all licenses of the same product (irrespective of version) must be supported under an active Actian Support contract. You may not support only a subset of licenses of the same product; those licenses left unsupported must be terminated. With respect to Actian Support Services in relation to perpetual licenses, you hereby represent that you have the appropriate licenses to the Software that is subject to the Support Services.

Support Not Covered

Support services do not cover services for any failure or defect in the licensed product caused by (i) alteration or modification of the licensed product other than by Actian unless such alteration or modification was made under the direction of Actian; (ii) negligence, computer or electrical malfunction; or (iii) use, adjustment, installation or operation other than in accordance with the licensed documentation or with any application or in an environment other than as specified in the licensed documentation, or if you are using a version of the licensed product released more than one year prior to the then current version.

Reinstatement of Actian Support for Perpetual Licenses

When Support Services lapse on a perpetual license, it can be reinstated by paying all of the back support due for the unsupported period, plus support for one year going forward, unless agreed otherwise between Actian and you. Unsupported licenses are not eligible for Updates, Enterprise Support, or any other Actian services.

Search

Want to Learn More?
Call Us: +1 (888) 446-4737

Contact Us

Contact Support
([/web/20150118090302/http://supportservices.actian.com/support-services/#support#contacts](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#support#contacts))

Customer Portal

Log a Case
(<https://web.archive.org/web/20150118090302/http://support.actian.com/>)
Download Software & Patches
(<https://web.archive.org/web/20150118090302/http://esd.actian.com/>)
Documentation
(<https://web.archive.org/web/20150118090302/http://docs.actian.com/>)
Knowledge Base
([/web/20150118090302/http://supportservices.actian.com/kb/](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/kb/))
Security Center
([/web/20150118090302/http://supportservices.actian.com/support-services/#support/security-center](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/#support/security-center))

Other Resources

Webinar Archive
([/web/20150118090302/http://supportservices.actian.com/webinars/](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/webinars/))
Learn more Ingres & VW
(<https://web.archive.org/web/20150118090302/http://community.actian.com/wiki/Nr>)
Community Support
([/web/20150118090302/http://supportservices.actian.com/community/](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/community/))
Resource Library
(<https://web.archive.org/web/20150118090302/http://www.actian.com/resources/>)

Product Updates

"Update" means any update to the Software which Actian generally makes available to its supported customers, bug fixes, patches, service packs and new releases.

Right to Accelerate Product Support Lifecycle

Actian may shorten the term of Enterprise support for certain products and versions at its discretion. Actian will make commercially reasonable efforts to announce any change in lifecycle length at least 12 months in advance. These notices are subject to change, and will be updated as necessary.

User

As used in Actian's price list, "User" is an individual with the appropriate license rights, and authorized by customer, to use the Actian products which are installed on a single server or multiple servers, regardless of whether the individual is actively using the products at any given time.

Processor

As used in Actian's price list, "Processor" means the individual processor (whether it has one core or multiple cores) within a particular socket. All processors on or with which the Actian Software is running or installed must be licensed. A Server license allows you to use the licensed program on a single specified computer.

Cores

In an environment having multi-core processors, as determined by counting the number of individual physical processor cores within a single Processor, those systems will be priced on a per-core basis. Cores that are in single-core per processor configuration are not eligible for multi-core pricing. Core count is based on the total number of cores and processors in the particular hardware system.

Compute Unit (CU)

As used in Actian's price list, a "Compute Unit" shall mean the Software is licensed to 2 Sockets.

Socket

Means the equivalent of one CPU having 10 or less cores contained in such CPU.

Machine

As used in Actian's price list, a "Machine" shall mean the Software is licensed to (a) the entire physical computer or server which has a single unique serial number with no limitations placed on the number of Processors; or (b) an instance of a virtual machine.

Virtual Machine

Virtual Machine is an environment where a Virtual Machine has been implemented either by Software emulation or Hardware virtualization.

Virtual Processor

In a Virtual Machine environment, "Virtual Processor" means an individual virtual processor (whether it has access to one core or multiple cores) within a particular Virtual Machine configuration. All Virtual Processors on or with which the Actian Software is running or installed must be licensed. Where the Virtual Processor count exceeds the physical machine processor count, all additional Virtual Processors must be individually licensed.

Virtual Core

In a Virtual Machine environment, the Virtual Core count is the number of virtual cores that are designated or able to run the Actian Software within the Virtual Machine. In an environment having multiple Virtual Cores per Virtual Processor those systems will be priced on a per Virtual Core basis (and if such Virtual Core count is an odd number, it will be rounded up to the next multiple of 2). Virtual Cores that are in single Virtual Core per Virtual Processor configuration are not eligible for multi-core pricing. Where the Virtual Core count exceeds the physical machine core count, all additional Virtual Cores must be individually licensed (and if such Virtual Core count is an odd number, it will be rounded up to the next multiple of 2).

Source System Data

Is the total size of uncompressed text files containing all data extracted out of the source system(s) to represent the current data in a Vectorwise database.

Scope of Hot Standby/DR, Test and Developer Licenses

If we have granted to you in writing a Hot Standby/DR, Test or Developer license, the following definitions apply to those licenses:

Hot Standby/DR Licenses

For Hot Standby/DR licenses, the scope is limited to testing and installation of the software ("Standby Software") on a backup system for hot, warm or cold standby disaster-recovery purposes (i.e. where the primary installation of the software becomes unavailable for use), and the Standby Software cannot be used for production purposes unless and only for so long as the primary production copy of the software is unavailable and not in use. The Hot Standby/DR license rights are valid only if you have a concurrent full production use license for the identical software product, product version, and duration as the Standby Software license, and such production software is deployed on and licensed for a system with at least as many cores as the Standby Software.

Test Licenses

For Test licenses, the software may be used only for purposes reasonably associated with testing of a software application in a non-production environment (such as, but not limited to, recreating problems affecting a production environment, creation of test cases, testing new releases or applications that are planned for migration into the production environment), and not for production use, normal operations, processing transactions, handling workloads for business purposes, or for any other purpose.

Developer Licenses

For Developer licenses, the scope is limited to use of the software only for the purpose of developing, testing, prototyping and demonstrating your applications that interact with the software, and not for commercial or production use or any other purpose. You may not use the application developed under this license with the software for any internal data processing or for any commercial or production purposes, without obtaining a production license to the software.

Actian Analytics Platform – ExpressPlus Edition and ExpressPlus Hadoop SQL Edition Support Levels**Product Support Lifecycle Policy**

This policy explains Actian Corporation's product support lifecycle policy. Whether purchased directly from Actian, or from Actian partners or resellers, these policies are designed to standardize product lifecycle expectancies and assist you in developing your internal release implementation and migration plans. Actian Corporation strives to provide the best quality Software and Support Services. In order to provide best in class software solutions, Actian has defined a predictable Product Support Lifecycle Policy to give you plenty of lead-time to plan and manage your upgrade and release processes.

Lifecycle Phases

Actian provides distinct product development phases and synchronized product support lifecycle offerings. By understanding these phases, you are better able to plan

support lifecycle offerings. By understanding these phases, you are better able to plan for your software support needs and your migration timeframes. The term General Availability (GA) is key to understanding each lifecycle phase and starts the clock.

Lifecycle Stage	Term
General Availability	Years 1-3
Extended Availability	Years 4-6
Obsolescence	Years 7-9

GA status is:

Achieved when a product is available for purchase or production upgrade

The most current release of your Actian product

Product Support Offerings

ExpressPlus Bronze Support provides:

Customer Support Liaison has access to Actian Support Engineers during normal business hours ([/web/20150118090302/http://supportservices.actian.com/support-services/support#contacts](http://supportservices.actian.com/support-services/support#contacts)) as specified for their region. Access to the Support Portal including: online support interface, knowledge base, discussion forums, and down site 24 hours a day, seven days a week, including holidays and can contact Actian Support via e-mail and the online support portal but is limited to 15 cases per year, 1-named user and limited response times regardless of severity.

Services	Description	Bronze Support
Knowledge Base Access	24X7 Access to our comprehensive Knowledge Base	✓
Multi-Channel Communication	Customers can contact Actian Support by e-mail or online	✓
Customer-Designated Support Liaisons	Support Liaisons are the individuals designated by the customer with the authorization to interface with Actian Support Engineering Staff	1
New Software Releases and Updates	Customers receive access to the latest versions of Actian software and Documentation	✓
Case Management	Case Management is the number of questions which can be initiated, excluding actual software problems.	15
Response Time Management	Response time management is the time it will take our support engineers to engage you on a reported case.	6 hours (critical) 24 hours (non-critical)
Business Hours Access	Customers receive support during normal business hours of 9AM – 5PM	✓

NOTE: Further support offerings are only provided by upgrading to the full platform offerings, see below.

Actian Analytics Platform - Extreme Performance Edition and Hadoop SQL Edition Support Levels

Product Support Lifecycle Policy

This policy explains Actian Corporation's product support lifecycle policy. Whether purchased directly from Actian, or from Actian partners or resellers, these policies are designed to standardize product lifecycle expectancies and assist you in developing your internal release implementation and migration plans. Actian Corporation strives to provide the best quality Software and Support Services. In order to provide best in class software solutions, Actian has defined a predictable Product Support Lifecycle Policy to give you plenty of lead-time to plan and manage your upgrade and release processes.

Lifecycle Phases

Actian provides distinct product development phases and synchronized product support lifecycle offerings. By understanding these phases, you are better able to plan for your software support needs and your migration timeframes. The term General Availability (GA) is key to understanding each lifecycle phase and starts the clock.

Lifecycle Stage	Term
General Availability	Years 1-3
Extended Availability	Years 4-6
Obsolescence	Years 7-9

GA status is:

Achieved when a product is available for purchase or production upgrade

The most current release of your Actian product

Product Support Offerings

A. Silver Support (Formerly known as standard support) provides:

Customers Support Liaisons have access to Actian Support Engineers during normal business hours ([/web/20150118090302/http://supportservices.actian.com/support-services/support#contacts](http://supportservices.actian.com/support-services/support#contacts)) as specified for their region. Access to the Support Portal including: online support interface, knowledge base, discussion forums, and download site 24 hours a day, seven days a week, including holidays and can contact Actian Support via phone, e-mail, and the online support portal.

B. Gold Support (formerly known as enterprise support) provides:

All the benefits of Silver Support, plus: 24X7X365 emergency access to Actian Support Engineers, secure virtual desktop sharing, and pro-active weekend support with prior notification.

C. Platinum Support provides (formerly known as premium support) provides:

At the benefits of Silver Support, Gold Support, plus: assigned case management, configuration management, recurring project status calls, priority issue requests, and quarterly status reports.

D. Managed Services provides:

All the benefits of Silver Support, Gold Support, Platinum Support, plus: dedicated support engineers, on-site review meetings, yearly on-site health assessments, proactive support, and critical issue notifications. As well, as other additional 'optional' services including: Installation assistance, upgrade assistance, disaster recovery assistance, migration assistance, performance and tuning, and full environment replications. Further details on this offer can be found [here](http://supportservices.actian.com/support-services/services) ([/web/20150118090302/http://supportservices.actian.com/support-services/services](http://supportservices.actian.com/support-services/services)).

Detailed Support Offerings

Services	Description	Silver Support	Gold Support	Platinum Support	Managed Services
Knowledge Base Access	24X7 Access to our comprehensive Knowledge Base, which includes over 15,000 Tech Notes	✓	✓	✓	✓
Multi-Channel Communication	Customers can contact Actian Support by phone, e-mail or online	✓	✓	✓	✓
Customer-Designated Support Liaisons	Support Liasons are the individuals designated by the customer with the authorization to interface with Actian Support Engineering Staff	2	3	Unlimited	Unlimited
New Software Releases and Updates	Customers receive access to the latest versions of Actian software and Documentation	✓	✓	✓	✓
24x7x365 Critical Support ^f	Customers receive 24X7X365 access to Actian Support Engineering Staff	option	✓	✓	option
Collaborative Support	Customers can engage our expert Actian Support Engineers to diagnose and troubleshoot your issue(s) through our secure virtual desktop sharing solution.		✓	✓	✓
Weekend Assistance ^h	Customers that have project upgrades scheduled over a weekend have access to Support Engineering should any critical issues arise		✓	✓	option
Assigned Case Manager	Customer is assigned a Technical Support Case Manager who is responsible for account overview and regular review of all open cases, and is available as an any-time escalation point of contact for critical issues			✓	✓
Configuration Management	Customers can engage our expert Actian Support Engineers and knowledge that assist you in installing and configuring your Actian software for optimal stability, manageability, availability and productivity			✓	✓
Recurring Project Status Conference Calls	Customer has regularly scheduled conference calls with the dedicated contact to review and prioritize open cases and discuss project plans and new initiatives			✓	✓
Priority Issue Requests for Critical Issues	Customer issues are prioritized ahead of non-managed level customers' requests,			✓	✓

Quarterly Status Reports	Assigned Case Manager or Dedicated Support Engineer provides customer with quarterly electronic status reports which cover all issue activity and the status of all open issues			✓	✓
Dedicated Support Engineer	Customer is assigned a Dedicated Support Engineering team who acts as a remote member of the project team and is directly responsible for working on all technical support cases				✓
On-Site Review Meetings ⁱⁱ	Dedicated support engineer visits customer site to review project status and to address open technical support cases				✓
On-Site System Health Checks ^{iv}	Dedicated support engineer notifies customer of known issues found internally or reported by other customer which may impact their project				✓
Pro-active Support	Dedicated support engineer review the environment and DB regularly for error messages and open issues to address cases				✓
Critical Issue Notification	Dedicated support engineer notifies customer of known issues found internally or reported by other customer which may impact their project				✓
Disaster Recovery Assistance	Dedicated support engineer works with the customer on data recovery for circumstances when data loss or corruption occurs				option
Migration Assistance	Dedicated support engineer works with the customer to facilitate in planned upgrades				option
Performance Tuning	Dedicated support engineer will provide performance assessment and tuning recommendations to ensure the environment is optimized				option
Environment Replication	Action maintains a copy of the customer's environment in-house, leading to quicker issue resolution				option
Additional Support Liaisons	Customers may increase the number of authorized individuals who have direct access to Action Support				option

ⁱ 24X7X365 Technical Support is available for Severity 1 issues as defined in the Action Support Policies [here](http://supportservices.action.com/support-services/support#policy) ([/web/20150118090302/http://supportservices.action.com/support-services/support#policy](http://supportservices.action.com/support-services/support#policy)), and is available in English Only. During non-business hours, Action's 24X7 support engineers will stabilize the customer application or find a suitable workaround, but final determination for root cause may extend to our regular business hours when all resources are available.

ⁱⁱ Weekend assistance will be provided for Severity 1 and Severity 2 issues as defined in the Action Support Policies [here](http://supportservices.action.com/support-services/support#policy) ([/web/20150118090302/http://supportservices.action.com/support-services/support#policy](http://supportservices.action.com/support-services/support#policy)), and is available in English Only. Action's 24X7 support

iii The Dedicated Support Engineer will be available to perform an On-Site visit semi-annually at no additional cost to the customer. The customer may request additional visits, up to one visit per quarter, but shall be responsible for reimbursing Actian for reasonable travel and accommodations incurred in association with the additional On-Site visits.

iv The Dedicated Support Engineer will be available to perform one On-Site Health Check, usually at the beginning of the engagement year, at no additional cost to the customer. The customer may request additional health checks, up to one visit per quarter, but shall be responsible for reimbursing Actian for reasonable travel and accommodations incurred in association with the additional On-Site visits.

E. Extended Support provides:

Extended Support is available from year 4 after a major version is released to year 6 after GA release. There is an additional charge (1.5X) for this level of support. Extended Support is the same as Gold Support with the following exceptions: no certification with new third party products/services and code fixes/patches will no longer be developed.

F. Obsolescence Support provides:

Years 7 and beyond: This phase indicates that the standard support offering has expired and as such, code fixes will no longer be developed. Reasonable efforts will be provided for online support and access to existing releases and their software updates is available for 5 years through Obsolescence Support. There is an additional charge (2x) for this level of support.

G. Post-Obsolescence Support

Years 15 and beyond: Actian Corporation at its discretion will offer continuation of Obsolescence Support upon review of each account accordingly. The costing for this option remains the same as Obsolescence Support.

Third Party Dependencies and the Product Support Lifecycle

As operating systems and technologies are retired by their respective vendors Actian will provide an IT planning roadmap as soon as possible to help you plan your next move. Actian will continue to provide Incident Management, Change Management and other support functions to the best of our internal capabilities, but issues concerning Problem Management and Configuration Management around new components will be restricted to the current knowledge and known work-arounds. Actian reserves the right to announce a discontinuance of maintenance and support on platforms and database applications to coincide with the vendor's standard support policy.

Actian Ingres and OpenROAD Support Levels

Product Support Lifecycle Policy

This policy explains Actian Corporation's product support lifecycle policy. Whether purchased directly from Actian, or from Actian partners or resellers, these policies are designed to standardize product lifecycle expectancies and assist you in developing your internal release implementation and migration plans. Actian Corporation strives to provide the best quality Software and Support Services. In order to provide best in class software solutions, Actian has defined a predictable Product Support Lifecycle Policy to give you plenty of lead-time to plan and manage your upgrade and release processes.

Lifecycle Phases

Actian provides distinct product development phases and synchronized product support lifecycle offerings. By understanding these phases, you are better able to plan for your software support needs and your migration timeframes. The term General Availability (GA) is key to understanding each lifecycle phase and starts the clock.

Lifecycle Stage	Term
General Availability	Years 1-5
Extended Availability	Years 6-10
Obsolescence	Years 11+

GA status is:

Achieved when a product is available for purchase or production upgrade

The most current release of your Actian product

NOTE: The above product lifecycle stages do not apply to the HVR product.

HVR Product Lifecycle policy is; support of a major HVR version (such as HVR 4.4) for 3 years after release date, and a specific minor version (such as HVR 4.4.1 or HVR 4.4.1/3) for 2 years after release date.

Any policy exceptions to the duration would be provided through additional notification through Actian support service delivery infrastructure.

Product Support Offerings

Support Offering	Term
Gold Support (originally Enterprise Support)	General Availability
Extended Support	Extended Availability
Obsolescence Support	Extended Availability

Gold Support (originally Enterprise Support)

Gold Support includes:

IT Service Process	Description
Customer-Designated Support Liaisons	Support Liasons are the individuals designated by the customer with the authorization to interface with Actian Support Engineering Staff.
Knowledge Base Access	24x7 Access to our comprehensive Knowledge Base, which includes over 15,000 Tech Notes
Multi-Channel Communication	Customers can contact Actian Support by phone, e-mail or online
24x7 Online Case Management	Access our customer support site to manage your Service Requests, search the extensive Ingres knowledgebase, determine supported product configurations, product documentation, and more.

24x7x365 Technical Support	Customers receive 24x7x365 access to Actian Support Engineering Staff for Severity 1.
Collaborative Support	You can engage our expert Ingres Customer Support Engineers to diagnose and troubleshoot your issue through our secure virtual desktop sharing solution.
New Software Releases and Updates	Customers receive access to the latest versions of Actian software and Documentation

¹ 24X7X365 Technical Support is available for Severity 1 issues as defined in the Actian Support Policies here and is available in English Only. During non-business hours, Actian's 24X7 support engineers will stabilize the customer application or find a

suitable workaround, but final determination for root cause may extend to our regular business hours when all resources are available.

Gold Support is available for all currently licensed Actian Ingres and OpenROAD products.

Extended Support

Extended Support is available from year 6 after a major version is released to year 10 after GA release. There is an additional charge (1.5x) for this level of support. Extended Support is the same as Standard Support with the following exceptions:

- No certification with new third party products/services
- Code fixes/patches will no longer be developed for non-critical problems

Obsolescence Support

Years 11 and beyond: This phase indicates that the standard support offering has expired and as such, code fixes will no longer be developed. Reasonable efforts will be provided for online support and access to existing releases and their software updates is available for 5 years through Obsolescence Support. There is an additional charge (2x) for this level of support.

Post-Extended Support

Years 15 and beyond: Actian Corporation at its discretion will offer continuation of Extended Support upon review of each account accordingly. The costing for this option remains the same as Extended Support.

Actian Versant Support Levels

Product Support Lifecycle Policy

This policy explains Actian Corporation's product support lifecycle policy. Whether purchased directly from Actian, or from Actian partners or resellers, these policies are designed to standardize product lifecycle expectancies and assist you in developing your internal release implementation and migration plans. Actian Corporation strives to provide the best quality Software and Support Services. In order to provide best in class software solutions, Actian has defined a predictable Product Support Lifecycle Policy to give you plenty of lead-time to plan and manage your upgrade and release processes.

Lifecycle Phases

Actian provides distinct product development phases and synchronized product support lifecycle offerings. By understanding these phases, you are better able to plan for your software support needs and your migration timeframes. The term General Availability (GA) is key to understanding each lifecycle phase and starts the clock.

Product Lifecycle Stages

Lifecycle Stage	Term
General Availability (GA)*	Available for current version only and preceding version for no more than 24 months
Extended Availability	24 months after current version becomes GA

* GA status is achieved when a product is available for purchase or production upgrade or the most current release of your Actian product. Any policy exceptions to the duration would be provided through additional notification through Actian support service delivery infrastructure.

Product Support Offerings

Support Offering	Product Lifecycle Stage
Standard Support	General Availability
Emergency Response Support*	General Availability
Extended Support	Extended Availability

* If mission critical deployments are a part of your business, Actian Versant Emergency Response Support Services are there to help you make it happen and fulfill your Service Level Agreements. This support option extends Standard by providing access to our technical support engineers outside of regular business hours, 24 hours a day, 7 days a week. It is available to support deployed applications experiencing a critical problem resulting in production downtime.

Standard Support

Standard Support includes:

IT Service Process	Description
2-Named Callers	Support is limited to 2-named callers
9X5 Incident Management	Create Service Requests to engage Actian support personnel via the Online Service Desk to manage service disruptions during business hours as specified for their region.
9X5 Problem Management	Create Service Requests via the Online Service Desk to solve problems with Actian product including configuration issues, usage questions and issues, and errors in a release.
Release Management	Access subscribed updates as they are released.

Standard Support is available for all currently licensed Actian Versant products. This offering does not include any 24X7X365 access to Actian Corporation Technical Support staff and does not include 24 hour commitment and response guidelines for severity 1 incident requests as defined in the 'Severity Definitions and Response Times' section below.

Extended Support

Extended Support is available from year 2 after a major version is released to year 7

after GA release. There is an additional charge (2x) for this level of support. Extended Support is the same as Standard Support with the following exceptions:

- No certification with new third party products/services
- Code fixes/patches will no longer be developed for non-critical problems

Post-Extended Support

Years 7 and beyond Actian Corporation at its discretion will offer continuation of Extended Support upon review of each account accordingly. The costing for this option remains the same as Extended Support. Code fixes and patches will no longer be developed if continued Extended Support is provided beyond the 7th year after GA.

Scope of Versant Named User, FTS, VAR, and High Availability Backup

Named User Licenses

For Named User licenses, the scope is limited to use of V/OD solely in client/server applications where a user interacts with an application that is directly connected to the database and all data input to the database comes from the user. A Named User License cannot be used for web-based, 3-tier or n-tier applications. Named User License is licensed per user and requires a 10 user minimum.

FTS Licenses

For FTS licenses, the scope is limited to use of V/FTS configured databases on a server. V/FTS (Versant Fault Tolerant Server) enables automatic fail-over and recovery in the case of hardware or software failure commonly known as a Fault Tolerance Server set-up. The FTS Server cannot be used for production purposes unless and only for so long as the primary production copy of the software is unavailable and not in use. The FTS license rights are valid only if you have a concurrent full runtime license for the identical software product, product version, and duration as the FTS license, and such production software is deployed on and licensed for a system with at least as many cores as the FTS Software.

VAR Licenses

For VAR licenses, the scope is limited to use of V/AR configured databases on a server. V/AR (Versant Async Replication) supports both master-slave and peer-to-peer asynchronous replication between multiple object servers. This can be used to replicate data to a distributed recovery site or to replicate data between multiple local object servers for increased performance and reliability. The VAR license rights are valid only if you have a concurrent full runtime license for the identical software product, product version, and duration as the VAR license, and such production software is deployed on and licensed for a system with at least as many cores as the VAR Software.

High Availability Backup Licenses

For High Availability Backup licenses, the scope is limited to use of the High Availability Backup functionality. The Versant High Availability Backup is an add-on software module that enables the Versant Object Database to use the disk mirroring features of EMC Symmetrix or other enterprise storage systems to take an online backup of very large data volumes without impacting availability. A license is required for each server (not CPU) that is involved in the backup process.

Actian PSQL Support Levels

Product Support Offerings

A. Per-Incident Support

The single support incident is the affordable option when support needs are few and far between. Per-incident can be delivered via email or by calling Actian. To purchase support incidents via telephone please call Actian at 800-287-4383 Option 2 (for Sales) and Option 2 (for Database).

B. Bundled Support

Services	Description	Bronze Support	Silver Support	Gold Support	Platinum Support
Knowledge Base Access	24x7 Access to our comprehensive Knowledge Base	✓	✓	✓	✓
Customer-Designated Support Liaisons	Support Liaisons are the individuals designated by the customer with the authorization to interface with Actian Support Engineering Staff	2	2	5	Unlimited
Case Management	Cases Management is the number of questions which can be initiated, excluding actual software problems.	5	10	30	Unlimited
Response Time Management	Response time management is the time it will take our support engineers to engage you on a reported case.	6 hours (critical) 24 hours (non-critical)	6 hours (critical) 24 hours (non-critical)	4 hours (critical) 12 hours (non-critical)	2 hours (critical) 6 hours (non-critical)
Business Hours Access	Customers receive support during normal business hours of 9AM – 5PM CST	✓	✓	✓	✓
24x7x365 Critical Support	Customers receive 24X7X365 access to Actian Support Engineering Staff				✓
Direct Support Engineers	Customers are able to directly access Actian Support Engineers				✓

Severity Definitions and Response Times

Support issues may be submitted either electronically or via telephone. To ensure that we treat your issue with the appropriate level of significance, when raising an issue, you are responsible to accurately assign a severity level. The following table provides some guidance as to how the severity should be defined.

Severity 1: Critical Business Impact - Any unscheduled, total loss of a production system, application or service, or any loss of a major business function.

Severity 2: Major Business Impact - Any failure which causes a partial loss or degradation of a production system or service, or has the potential to escalate to a Severity 1 if left unresolved.

Severity 3: Minimal Business Impact - Any non-critical system error or minor service loss which has minimal business impact or risk.

Severity 4: No Business Impact - Any incident which causes no loss of a production service, and which has no business impact.

When you have a Severity 1 incident, we want to work on your Severity 1 incident until it is resolved. To that end, you must call us so we can immediately engage a resource and also require your technical team must also be available 24 hours a day so that any further documentation required to continue work can be obtained, and to provide further information and assistance. If your technical team is not available to provide the required documentation, information or assistance, the severity of the incident may be downgraded to a Severity 2, and shall remain downgraded until all required documentation, information, and assistance is provided. Actian's assistance with resolution of an incident is contingent on your team's cooperation and assistance.

*Standard Support does not include 24 hour commitment and response guidelines for Severity 1 incident requests.

Support Response Times by Severity

Severity 1: 1 hour 24X7*

Severity 2: 2 hours during business hours

Severity 3: 4 hours during business hours

Severity 4: End of business day

*This response level is only available to customers with an Enterprise Support Services subscription.

Information Customers Need When Requesting Support

The following information should be provided:

Your company name and six-character site ID for Enterprise Support or Extended Support program:

- Name of the product
- Release of the product
- Service Pack (SP) of the product (e.g. maintenance level)
- Fixes applied above the base product or Service Pack

Operating system (OS):

- OS release and SP
- Language of the OS (if applicable)
- Fixes applied to the OS or SP

Original Equipment Manufacturer (OEM) software:

- Name and vendor of OEM software
- Releases of OEM software including SP

What were you trying to accomplish?

What is the business impact of the problem?

Which environment is affected (e.g. production, test, or development)?

Describe the incident in detail:

- Specific steps taken and results
- Entire error messages received
- Is it reproducible? If so, please provide the supporting testcase.
- Is it intermittent?
- Is there any pattern to when it occurs?

What else was happening on the system prior to the incident or during the incident?

Did this ever work?

Is the incident occurring on one machine or on multiple machines?

Does this work on any machines in your enterprise?

Has anything changed recently in your environment that could have triggered the problem?

- Hardware
- OS software
- Application software
- Network configurations

Contact Information

Contact information by country can be found on our [support contacts page](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/support#contacts) ([/web/20150118090302/http://supportservices.actian.com/support-services/support#contacts](https://web.archive.org/web/20150118090302/http://supportservices.actian.com/support-services/support#contacts)).

Updates and Changes

The Actian Support Policies may be updated from time to time and are subject to change at Actian's discretion; provided however, Actian's service commitments per its Support Policies will not be materially reduced as compared to the Actian Support Policies in effect at the start of your support term (typically one year) during the then-current support term.

Veterinary Data Services, Inc.

Veterinary Data Services, Inc.
 400 Bellerive Blvd
 Suite 250
 Nicholasville KY 40356-8184

(888)838-3282



Purchase Order

Date	P.O. No.
02/03/2015	1012

Vendor
Actian Corporation 12365-B Riata Trace Parkway Austin, TX 78727

Ship To
Veterinary Data Services, Inc. 400 Bellerive Blvd Suite 250 Nicholasville, KY 40356-8184

				Ship Via
Item	Description	Qty	Rate	Amount
	Maintenance Contract renewal - Pervasive DI-OP-9-PRO-P-DEV-SLVR Quote #447716			913.00
	Maintenance Contract renewal - Pervasive DI-OP-9-P-SLVR-MNT-EXT Quote #447716			839.95
Total				\$1,752.95

Approved By

Date

EXHIBIT E

Type of Work: Computer File

Registration Number / Date:
TX0008902355 / 2020-10-08

Application Title: DataIntegrator 9.x Engine.

Title: DataIntegrator 9.x Engine.

Description: Electronic file (eService)

Copyright Claimant:
Actian Corporation, Transfer: By written agreement.

Date of Creation: 2007

Date of Publication:
2007-11-30

Nation of First Publication:
United States

Authorship on Application:
Pervasive Software, Inc., employer for hire; Citizenship:
United States. Authorship: computer program.

Pre-existing Material:
computer program.

Basis of Claim: computer program.

Copyright Note: C.O. correspondence.

Names: Pervasive Software, Inc.
Actian Corporation

=====

Type of Work: Computer File

Registration Number / Date:
TX0008902344 / 2020-10-08

Application Title: DataIntegrator 9.x UI.

Title: DataIntegrator 9.x UI.

Copyright Claimant:
Actian Corporation, Transfer: By written agreement.

Date of Creation: 2007

Date of Publication:
2007-11-30

Nation of First Publication:
United States

Authorship on Application:
Pervasive Software, Inc., employer for hire; Citizenship:
United States. Authorship: computer program.

Pre-existing Material:
computer program, artwork.

Basis of Claim: computer program.

Copyright Note: C.O. correspondence.

Names: Pervasive Software, Inc.
Actian Corporation

=====

Type of Work: Computer File

Registration Number / Date:
TX0008902360 / 2020-10-08

Application Title: DataConnect 10.6 Engine.

Title: DataConnect 10.6 Engine.

Description: Electronic file (eService)

Copyright Claimant:
Actian Corporation.

Date of Creation: 2016

Date of Publication:
2016-03-31

Nation of First Publication:
United States

Authorship on Application:
Actian Corporation, employer for hire; Citizenship: United States. Authorship: computer program.

Pre-existing Material:
computer program.

Basis of Claim: computer program.

Copyright Note: C.O. correspondence.

Names: Actian Corporation

=====

Type of Work: Computer File

Registration Number / Date:
TX0008902319 / 2020-09-28

Application Title: DataConnect 10.6 UI.

Title: DataConnect 10.6 UI.

Description: Electronic file (eService)

Copyright Claimant:
Actian Corporation.

Date of Creation: 2016

Date of Publication:
2016-03-31

Nation of First Publication:
United States

Authorship on Application:
Actian Corporation, employer for hire; Citizenship: United States. Authorship: computer program.

Pre-existing Material:
computer program, artwork.

Basis of Claim: computer program.

Copyright Note: C.O. correspondence.

Names: Actian Corporation

=====

Type of Work: Computer File

Registration Number / Date:
TX0008898417 / 2020-09-28

Application Title: DataConnect 11.6 Engine.

Title: DataConnect 11.6 Engine.

Description: Electronic file (eService)

Copyright Claimant:
Actian Corporation.

Date of Creation: 2020

Date of Publication:
2020-09-28

Nation of First Publication:
United States

Authorship on Application:
Actian Corporation, employer for hire; Citizenship: United States. Authorship: computer program.

Pre-existing Material:
computer program.

Basis of Claim: computer program.

Names: Actian Corporation

=====

Type of Work: Computer File

Registration Number / Date:
TX0008899134 / 2020-09-30

Application Title: DataConnect 11.6 UI.

Title: DataConnect 11.6 UI.

Description: Electronic file (eService)

Copyright Claimant:
Actian Corporation.

Date of Creation: 2020

Date of Publication:
2020-09-28

Nation of First Publication:
United States

Authorship on Application:
Actian Corporation, employer for hire; Citizenship: United States. Authorship: computer program, artwork.

Pre-existing Material:
computer program, artwork.

Basis of Claim: computer program, artwork.

Copyright Note: C.O. correspondence.

Names: Actian Corporation

=====

EXHIBIT F

Purchase Order

Please authorize & fax back to (512) 231-6199
Attn: Scott Calvin

For Purchasing Company: Vetdata, Inc.

Date: 12/27/06

Bill To

Name : Jason Jagers
Company : Vetdata, Inc.
Address : 426 N. Broadway
Georgetown, Kentucky 40324
Phone : (502) 316-9436 x101
e-mail : jjagers@vetdata.net

PLEASE CONFIRM BILL TO ADDRESS

Ship To

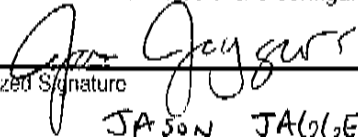
Name : Jason Jagers
Company : Vetdata, Inc.
Address : 426 N. Broadway
Georgetown, Kentucky 40324
Phone : (502) 316-9436 x101
e-mail : jjagers@vetdata.net

PLEASE CONFIRM SHIP TO ADDRESS

Terms for purchases from Pervasive Software Inc - Integration Products Division are net 30, FOB Austin, Texas, unless otherwise specified in writing. Late charges of 1.5% per month will be charged on unpaid balances. Price quote is valid until 12/28/06. Applicable State and Local taxes calculated separately for customers residing in the following states: New Jersey, California, and Texas.

Product Description	Version	Qty	List Price	Extended Price
Products				
Data Integrator Pro Development Seat MT	8.12	1	\$5,500/user	
EOY Discount-must be executed prior to 12/29/06			-\$1,375	\$4,125
Silver Support for 12 months at 8% of List Price				\$440
Maintenance for 12 months at 15% of List Price				\$825
Data Integrator Pro Engine MT for Windows	8.12	1	\$10,000/CPU	
EOY Discount-must be executed prior to 12/29/06			-\$2,500	\$7,500
Silver Support for 12 months at 8% of List Price				\$800
Maintenance for 12 months at 15% of List Price				\$1,500
Product Total				\$11,625
Support and Maintenance Total				\$3,565
5 Day FastTrack Training				\$11,900
(on site for up to 6 - includes travel and expenses)				
Total				\$27,090

As a representative of the Purchasing Company, I understand that my signature indicates the Purchasing Company's acceptance of the above software configuration and payment terms.

Authorized Signature

JASON JAGGERS

Printed Name

12/27/06

Date

Email
jjagers@vetdata.net
VP, CIO

Title

Purchase Order Number

If you are paying by credit card, please indicate below:

☐ Visa ☐ MasterCard ☐ American Express

Card #:	Expiration Date:
Name:	Billing Address:
Phone #:	Email:
Payment Amount:	Signature:

Pay To:

Pervasive Software
12365-B Riata Trace Parkway
Austin, TX 78727
Tel: 512.231.6000
Fax: 512.231.6199

PERVASIVE
Integration Products Division

Attention:

Scott Calvin
Corporate Accounts
Scott.Calvin@pervasive.com
512.231.6831 - direct
512.231.6199 - fax

EXHIBIT G

**Integration Products Division**

12365-B Riata Trace Parkway
Austin, TX 78727
512.231.6000 or 800.287.4383
Fax 512.231.6010

Invoice

Invoice #: 108525
Date: 12/29/2006
Terms: Net 30
PO #: NA
Payment Method: Purchase Order
Order #: 115777
Customer #: 315088
Ship Acct #: 315088
Ship Date:
Ship Via:
WayBill #:

Bill To: Vetdata, Inc.
Accounts Payable
426 N. Broadway
Georgetown, KY 40324
United States of America

Ship To: Vetdata, Inc.
Jason Jaggers
426 N. Broadway
Georgetown, KY 40324
United States of America
(502) 316-9436 x101
jjaggers@vetdata.net

Item Number	Description	Ordered	Shipped	Discount	Unit Price	Extended
IDIP-D01W201-91 812-02	Data Integrator Pro Development Seat 1 CPU Multi Threaded For Windows, Single User EOY discount D121-100575	1	1	25%	\$5,500.00	\$4,125.00
IMN-P8S-10001	Maintenance (Subscription) Applies to Line 1 D121-100575 For 12 months, ending 12/31/2007	1	1	0%	\$825.00	\$825.00
ISP-P8S-10001	Standard Support Plan (Silver) Applies to Line 1 Contract Number: 00177362 for D121-100575 For 12 months, ending 12/31/2007	1	1	0%	\$440.00	\$440.00
IDIP-E01W201-988 12-01	Data Integrator Pro Engine 1 CPU Multi Threaded For Windows, 256 User EOY discount D122-100330	1	1	25%	\$10,000.00	\$7,500.00
IMN-P8S-10001	Maintenance (Subscription) Applies to Line 4 D122-100330 For 12 months, ending 12/31/2007	1	1	0%	\$1,500.00	\$1,500.00
ISP-P8S-10001	Standard Support Plan (Silver) Applies to Line 4 Contract Number: 00177363 for D122-100330 For 12 months, ending 12/31/2007	1	1	0%	\$800.00	\$800.00
ISV-080-90102	Fast Track Package - 5 Day	1	1	0%	\$11,900.00	\$11,900.00

Sub Total: \$27,090.00

State Taxes: \$0.00

County Taxes: \$0.00

City Taxes: \$0.00

District Taxes: \$0.00

Total: \$27,090.00

Please remit in U.S. Dollars.

All dealer sales are final. All end-user returns must be accompanied by a pre-approved Return Material Authorization (RMA) number.

If payment is not received when due, a service charge of 1.5% per month (18% annual percentage rate) will be applied.

Software Licenses

In the event of conflicting or additional terms contained in any customer purchase order, the terms and conditions of the license shipping with the software shall control.

In the event of conflicting or additional terms contained in any customer purchase order, the terms and conditions of any executed OEM, master purchase agreement or partner agreement shall control.

Support Services

In the event of conflicting or additional terms contained in any customer purchase order, the terms and conditions of the support terms attached to Pervasive's invoice shall control.

In the event of conflicting or additional terms contained in any customer purchase order, the terms and conditions of any executed support agreement shall control.

EXHIBIT H

8.12 EULA

READ CAREFULLY BEFORE INSTALLING

License Agreement

READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY BEFORE INSTALLING THIS SOFTWARE. INSTALLING THIS SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THEM, YOU SHOULD PROMPTLY RETURN THE PACKAGE THAT WAS SENT TO YOU OR DELETE ANY DOWNLOADED FILES THAT CONTAIN THE SOFTWARE AND YOUR MONEY WILL BE REFUNDED (IF WITHIN 30 DAYS OF PURCHASE).

Pervasive Software Inc., a Delaware corporation, at 12365-B Riata Trace Parkway, Austin, Texas 78727, USA ("Pervasive"), hereby grants to you a non-exclusive, non-transferable license to use the software product that is contained on media supplied to you or that you have electronically downloaded (the "Software") and the accompanying printed materials or on-line documentation (the "Documentation") subject to the terms set forth below. The term "Software" also includes any upgrades, modified versions, copies, and trial versions licensed to you. Software may include design or development software, adaptors, connectors, agents, metadata and run-time software. The term "you" means the person or business entity that is licensing the Software pursuant to this Agreement.

1. Use of Design or Development Software.

If you have licensed Software that is identified on the sales invoice, on the media package or on the install screen as design or development software, then -

- * You may install the Software only in a single location on a hard disk or other storage device.
- * You may install the Software on a network server used only to install or run the Software over an internal network; however, you must acquire and dedicate a license for each individual who will use the Software.
- * You may install and use each licensed copy of the Software on one home or portable "Secondary" computer. However, another person may not use the Software on the Secondary computer at the same time the Software on the primary computer is being used.

2. Use of Pervasive Deployment or Runtime Versions of the Software.

If a product identified as being for deployment or runtime is part of the Software you have purchased, then --

- * Each license of the deployment or runtime Software may be installed only on a single machine or network server.

* On multiple-CPU machines, the deployment or runtime Software may not be used concurrently on more CPUs than the number of CPUs specified on the media package or sales invoice. In the event you use any number of physical CPUs, the authorized number of CPUs under this Agreement will be determined based on the number of logical or virtual CPUs.

* Notwithstanding the foregoing, you may programmatically invoke the deployment or runtime Software from one or more other machines within your organization.

* If you intend to embed a runtime within any application for distribution to third parties, then you must (i) execute a distribution agreement with Pervasive; (ii) distribute the runtime Software only in conjunction with or as a part of your application; (iii) include an end-user license agreement with your application that grants a limited license to use the runtime Software and protects the intellectual property rights of Pervasive and its suppliers in the run-time Software; (iv) unless you or your sub-distributors have a separate written agreement with Pervasive to private-label the runtime portion of the application, include on the application's startup screen the copyright notice, "Pervasive Integration Runtime(TM) is Copyright Pervasive Software Inc. 2006.

All rights reserved."; and (v) indemnify, hold harmless and defend Pervasive and its suppliers from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of your application.

3. Copyright.

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You may make copies of the Software only for archival backup and security reasons in order to protect your investment from loss. You may not install copies of the software for fail-over or disaster recovery without purchasing additional licenses for such purposes. Unauthorized copying of either the Software or related printed materials is expressly forbidden. You may print one copy of the Documentation or any part thereof from the electronic Help included with your Software.

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You agree to take all reasonable steps to protect the Software and Documentation from unauthorized copying or use. The Software source code represents and embodies trade secrets of Pervasive or its licensors. The source code and embodied trade secrets are not licensed to you and any modification or addition thereto, or deletion therefrom is strictly prohibited. You agree not to disassemble, decompile, or otherwise reverse engineer the Software in order to discover the source code or the trade secrets contained in the source code.

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You may not assign or otherwise transfer in whole or in part or in any manner any rights, obligations, or any interest in or under this Agreement without Pervasive's prior written consent and any attempted assignment will be void. A merger or other acquisition by a third party will be treated as an assignment. Pervasive may at any time and without Your consent assign all or a portion of its rights and duties under this Agreement to a company or companies wholly owning, owned by, or in common ownership with Pervasive.

8. Performance or Benchmark Testing.

You may not publish or otherwise disclose to any third party the results of any performance or benchmark tests of the Software without prior written approval of Pervasive.

9. Limited Warranty.

To the original licensee only, Pervasive warrants the media on which the Software is recorded and its accompanying printed materials to be free of defects in materials and workmanship for a period of 90 days from the date of purchase as evidenced by a copy of the receipt. If the licensee notifies Pervasive of defects in material or workmanship within the warranty period, then, as licensee's sole remedy and Pervasive's sole obligation and liability, Pervasive will replace the defective item(s).

If you receive pre-release or beta Software under this Agreement, such pre-release or Beta Software is provided "As Is" without warranty of any kind. Pervasive and its suppliers will not be liable for any damages relating to your use of such pre-release or beta Software. If Pervasive updates or upgrades the pre-release or beta Software and makes it generally available, then: (i) provided you have paid any applicable maintenance fees, if any, Pervasive will provide you with the applicable update or upgrade to the generally available version of the Software, and (ii) the limited warranty set forth above in this Agreement will apply to such generally available Software version commencing upon receipt of such version.

DISCLAIMER OF WARRANTY. PERVASIVE LICENSES THE SOFTWARE AND DOCUMENTATION TO YOU UNDER THIS AGREEMENT SOLELY ON AN "AS IS" BASIS. EXCEPT AS PROVIDED IN THIS SECTION 9, PERVASIVE MAKES NO OTHER REPRESENTATIONS, CONDITIONS OR WARRANTIES WHATSOEVER, EITHER

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10. High Risk Activities.

The Software is not fault-tolerant and is not designed, manufactured, or intended for use or resale as on-line control equipment in hazardous environments regarding fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Pervasive and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

11. Limitation of Liability.

PERVASIVE'S AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SOFTWARE OR DOCUMENTATION IS LIMITED TO THE TOTAL OF ALL PAYMENTS MADE BY YOU FOR THE SOFTWARE UNDER THIS AGREEMENT. IN NO EVENT WILL PERVASIVE OR ITS SUPPLIERS BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER UNDER THEORY OF WARRANTY, TORT, PRODUCTS LIABILITY OR OTHERWISE.

12. Term, Termination.

This Agreement is effective from the date you open the Software envelope and will remain in force until terminated. You may terminate this Agreement at any time by destroying the Documentation and the Software together with all copies and adaptations thereof. This Agreement will automatically terminate if you breach any of the terms and conditions of this Agreement. You agree to destroy the original and all copies of the Software and Documentation, or to return them to Pervasive upon termination of this license. Sections 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of This Agreement is effective from the date you open the Software envelope and will remain in force until terminated. This Agreement will survive any termination hereof.

13. Miscellaneous.

13.1 Complete Understanding. This Agreement represents the complete agreement concerning the subject matter between you and Pervasive and supersedes all prior agreements and representations between you and Pervasive.

This Agreement may be amended only in writing executed by both parties. Any purchase order placed by you is accepted only upon your assent to the terms and conditions of this Agreement, and not those contained in your purchase order. NO VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY WARRANTY,

REPRESENTATION, OR PROMISE WHICH IS DIFFERENT THAN, OR IN ADDITION TO, THIS AGREEMENT ABOUT THE SOFTWARE.

13.2 Governing Law. This Agreement is governed by the laws of the State of Texas (U.S.A.) exclusive of its choice of law provisions. This Agreement expressly excludes the United States Convention on Contracts for the International Sale of Goods.

13.3 Waiver. No waiver of any right under this Agreement will be effective unless in writing, signed by a duly authorized representative of Pervasive. No waiver of any past or present right arising from any breach or failure to perform will be deemed to be a waiver of any future right arising under this Agreement.

13.4 Audit. You agree to maintain sufficient records, logs, and other materials ("Records") sufficient to document that your use of the Software is in accordance with the terms of this Agreement. Pervasive may audit such Records upon reasonable notice.

13.5 Severability. If any provision in this Agreement is held invalid or unenforceable, that provision will be construed, limited, modified, or, if necessary, severed, to the extent necessary, to eliminate its invalidity or unenforceability, and the other provisions of this Agreement will remain unaffected.

13.6 Export Controls. None of the Software or underlying information or technology may be downloaded or otherwise exported or reexported (i) into (or to a national or resident of) any country to which the U.S. has embargoed goods; or (ii) to any person or entity on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders, or the U.S. Commerce Department's Entity List of Missile, Nuclear, and Chemical and Biological Weapons Proliferators, or the U.S. Department of State's Foreign Terrorist Organization List. You agree to the foregoing and you represent and warrant that you are not located in, under the control of, or a national or resident of such country or on any such list. The Software may also be subject to U.S. laws and export regulations of the U.S. Government that require an explicit export license prior to any export or reexport of the Software. You agree to obtain any such explicit export license that may be required.

13.7 U.S. Government End Users. The Software is a "commercial item", as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation", as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212, and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein. Contractor/Manufacturer is Pervasive Software Inc., 12365 Riata Trace Parkway, Building B, Austin, Texas 78727.

13.8 Operating System. It is your responsibility to fully comply with applicable license agreements for any operating systems you may use with the Software.

13.9 English will be the controlling language of this Agreement.

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